

Date of Hearing: April 8, 2025

ASSEMBLY COMMITTEE ON WATER, PARKS, AND WILDLIFE

Diane Papan, Chair

AB 1413 (Papan) – As Amended March 24, 2025

SUBJECT: Sustainable Groundwater Management Act: groundwater adjudication

SUMMARY: Provides that a court's judgment in a comprehensive groundwater adjudication that allows more total pumping from a basin annually or on average than a valid groundwater sustainability plan (GSP) shall be deemed to substantially interfere with implementation of the Sustainable Groundwater Management Act (SGMA) and makes other changes relative to comprehensive groundwater adjudications and validation actions. Specifically, **this bill:**

- 1) Requires that challenges to a GSP in a groundwater basin shall be consolidated with a pending comprehensive adjudication.
- 2) Requires that in the event an action challenging a GSP is consolidated with a comprehensive adjudication, the court shall adjudicate the validity of a GSP's sustainable yield before adjudicating any other issue in the action.
- 3) Provides that a judgment in a comprehensive adjudication substantially impairs the ability of a Groundwater Sustainability Agency (GSA), the State Water Resources Control Board (State Water Board), or the Department of Water Resources (DWR) to comply with SGMA if it allows more total pumping from the basin annually or on average than the sustainable yield of the basin established in the latest GSP(s) covering the basin and if either of the following apply:
 - a) The GSPs have been validated by a final judgment in a validation action; or
 - b) The GSPs have been validated by operation of law because no validation action was filed.
- 4) Provides a GSA may file a validation action on a GSP within 180 days following its adoption (as opposed to "no sooner than 180 days").
- 5) Provides that review of a GSP by DWR or the State Water Board is not subject to validation or reverse validation actions. Provides that the validation of a GSP shall not be binding on, or applicable to, DWR or the State Water Board.
- 6) Provides that the court, in an adjudication action, shall not establish a safe yield or sustainable yield for a basin that exceeds the sustainable yield of the basin as established in a valid GSP. Provides a GSP shall be presumed valid unless ruled invalid pursuant to a validation action or referred to the State Water Board.
- 7) Provides that a judgment in a comprehensive adjudication that allows more total pumping from the basin annually or on average shall not be the only manner by which a judgment may substantially impair the ability of a GSA, DWR, or the State Water Board to comply with SGMA.
- 8) Makes technical and conforming changes.

EXISTING LAW:

- 1) Declares, under the “reasonable use doctrine,” that the waters of the state shall be put to beneficial use to the fullest extent they are capable, the waste or unreasonable use of water shall be prevented, and waters shall be conserved with a view the reasonable and beneficial use of such waters in the interest of the people and the public welfare. Provides the Legislature may enact laws in furtherance of this policy (California Constitution, Article X § 2).
- 2) Enacts the Sustainable Groundwater Management Act that requires local agencies to sustainably manage groundwater in high- or medium-priority basins by 2040. Defines sustainable management of groundwater as the avoidance of the following six “undesirable results:” (a) chronic lowering of groundwater levels; (b) reduction of groundwater storage; (c) seawater intrusion; (d) degraded water quality; (e) land subsidence; and (f) depletions of interconnected surface water (Water Code §§ 10720 *et seq.*).
- 3) Permits a GSA to file a validation action to determine the validity of its GSP no sooner than 180 days following adoption of the GSP (Water Code § 10726.6).
- 4) Requires the court to manage a comprehensive adjudication in a basin subject to SGMA in a manner that minimizes interference with the timely completion and implementation of a GSP, avoids redundancy and unnecessary costs in the development of technical information and a physical solution, and is consistent with SGMA (Water Code § 10737.2).
- 5) Stipulates that SGMA does not alter surface or groundwater rights (Water Code § 10720.5).
- 6) Outlines process and scope for a comprehensive adjudication of a groundwater basin [Code of Civil Procedure (CCP) § 830 *et seq.*].
- 7) Provides that a superior court judge of a county that overlies a basin subject to a comprehensive groundwater adjudication shall be disqualified and that an action against a GSA in a basin subject to a comprehensive groundwater adjudication shall be subject to transfer, coordination, and consolidation with the adjudication, as appropriate (CCP § 838).
- 8) Provides that a court may enter a judgment in a comprehensive groundwater adjudication if the court finds that the judgment meets all of the following criteria [CCP § 850(a)]:
 - a) It is consistent with Section 2 of Article X of the California Constitution;
 - b) It is consistent with the water right priorities of all non-stipulating parties and any persons who have claims that are exempted in the basin;
 - c) It treats all objecting parties and any persons who have claims that are exempted as compared to the stipulating parties; and
 - d) It considers the water use and accessibility of water for small farmers and disadvantaged communities.
- 9) Provides that a court may enter a judgment in a comprehensive groundwater adjudication if the court finds that the judgment will not substantially impair the ability of a GSA, DWR, or

the State Water Board to comply with SGMA and achieve sustainable groundwater management [CCP § 850(b)].

- 10) Provides that a public agency may bring a validation action within 60 days of a final determination by said public agency and prescribes procedures for a validation action (CCP §§ 860 *et seq.*).

FISCAL EFFECT: Unknown. This bill is keyed fiscal.

COMMENTS:

- 1) **Purpose of this bill.** This bill clarifies the Legislature’s intent in enacting SGMA and the streamlined adjudication statute in 2014 and 2015, respectively. Among other provisions, SGMA clearly provides that groundwater management be led by local agencies (i.e., GSAs) rather than the courts and that the ongoing use of groundwater that results in groundwater overdraft is an unreasonable use of water (per Section 2, Article X of the California Constitution). Further, the streamlined adjudication statute was designed to minimize conflict with a GSP and harmonize the proceedings of a groundwater adjudication with SGMA. Due to a lack of clarity in the streamlined adjudication statute, pending groundwater adjudications are leading to unnecessary delay and redundancy. Due to this, the author asserts that the further clarification provided by this bill is necessary. According to the author:

This bill will prevent pumpers from filing a comprehensive groundwater adjudication to get around and delay a GSP while rehashing the sustainable yield (or groundwater budget) established in a GSP. Unfortunately, this is occurring in pending groundwater adjudications in basins subject to SGMA. This delays sustainable groundwater management and is redundant. While the court has an important role to play in determining individual groundwater rights, the GSP development and implementation processes are the best forums for determining the sustainable yield for a given groundwater basin (akin to land use planning and zoning). This is even more the case when taking into account the fact that the two state agencies with technical expertise in water management – DWR and the State Water Board – take an active and ongoing role in overseeing SGMA implementation. To avoid delay in reversing groundwater overdraft and avoid shutting out smaller actors, this bill directs courts to not exceed the sustainable yield identified in a valid GSP when entering a judgment in a comprehensive groundwater adjudication.

The state and local agencies have invested hundreds of millions of dollars and more than a decade in SGMA implementation to make California more resilient to climate change. SGMA is a landmark law that embodies a collaborative approach to groundwater management and mandates the inclusion of all actors and groundwater pumpers (“interested parties”) in GSP development and implementation. This requirement is meant to ensure everyone has a seat at the table in the management of groundwater. All of the effort that has gone into developing, reviewing, and implementing GSPs to date can be nullified when parties that are unhappy with a GSP’s groundwater budget (i.e., sustainable yield) seek to re-do it via a comprehensive groundwater adjudication.

If a pumper believes the GSA has missed the mark on a basin’s sustainable yield and that

DWR is incorrect in approving a GSP (and, therefore, the sustainable yield), a pumper can obtain judicial review through a reverse validation action. Revisiting sustainable yield in a groundwater adjudication is inefficient, duplicative, and expensive. If such actions are not halted, SGMA will be undermined.

Finally, this bill directs the court to resolve challenges to the sustainable yield where multiple causes of action have been consolidated into a comprehensive adjudication. This fulfills the Legislature's intent that a groundwater adjudication minimally interfere with SGMA implementation. It is unclear how a GSP can be implemented if challenges to the sustainable yield are not resolved before the adjudication of individual pumpers' groundwater rights proceeds. If future groundwater adjudications proceed in a similar manner, it could significantly undermine the state's ability to meet the goals of SGMA.

- 2) **Background.** Groundwater is a critical source of supply that meets roughly 40% of water demand in an average year and more than 60% during drought years. There are three types of groundwater rights: overlying, appropriative, and prescriptive. The most common of these is the overlying right that entitles "an owner of land overlying groundwater to drill a well and pump groundwater for use of that land, within the basin or watershed" (Littleworth and Garner, 2019). No permit is required to obtain overlying rights and these rights are typically not quantified. Due to this, a landowner may pump as much groundwater as they desire so long as the water is put to beneficial use and the use is reasonable (Section 2, Article X of California Constitution). Overlying rights are "correlative" to other overlying right holders so that in a dispute amongst overlying landowners, all have equal rights. Due to the lack of a comprehensive framework for regulating and managing groundwater for most of California's history, many groundwater basins in California are in a state of overdraft (a condition where average annual pumping exceeds average annual groundwater supply in a basin). SGMA was enacted in 2014 to address overdraft and the adverse effects of excessive groundwater pumping.

Groundwater adjudications. A groundwater adjudication occurs when one or more parties file a civil action to resolve conflicts over groundwater rights. According to the Water Education Foundation, "through adjudication, the courts can assign specific water rights to water users and can compel the cooperation of those who might otherwise refuse to limit their pumping of groundwater. Watermasters are typically appointed by the court to ensure that pumping conforms to the limits defined by the adjudication." The overall limit or budget on groundwater pumping is typically referred to as "safe yield" in a settlement or judgment resulting from a groundwater adjudication. Out of 515 groundwater basins identified by DWR in Bulletin 118, 27 basins or sub-basins have been adjudicated. These are predominantly in urban and suburban parts of Southern California.

State law gives every overlying property owner a potential right in an unadjudicated groundwater basin. As such, determining who has groundwater rights that could be affected by an adjudication and the scope of those rights is difficult and can be a lengthy process; adjudications typically take more than a decade to resolve. Identifying and noticing every party that may have a right, completing technical work and sorting through disagreements over this technical work, and determining historic groundwater use which could affect the scope of one's rights are all factors that can increase the time and expense of an adjudication. In an attempt to streamline the groundwater adjudication process, SB 226 (Pavley) and AB 1390 (Alejo) were enacted in 2015.

The Committee is aware of five recent or pending groundwater adjudications:

- **Santa Clara Valley – Oxnard (No. 4-001.2) and Pleasant Valley (No. 4-006) groundwater basins.** A coalition of pumpers, the “OPV Coalition,” initiated this action in December 2022 against the Fox Canyon Groundwater Management Agency (FCGMA) (the GSA for the basins) asserting six causes of action: (1) seeking a comprehensive groundwater adjudication; (2) seeking quiet title to plaintiffs’ claims to use groundwater; (3), (4), and (5) writs of mandate challenging the GSP or FCGMA’s efforts to implement the GSP; and (6) alleging a violation of the California Environmental Quality Act. The court has stayed all causes of actions while it hears the comprehensive groundwater adjudication; this first phase is currently underway. DWR approved the GSPs for both basins in November 2021.
- **Cuyama Valley groundwater basin (No. 3-013).** Two large agricultural pumpers, Bolthouse Land Company and Grimmway Enterprises initiated this action in March 2022 seeking a comprehensive groundwater adjudication and quiet title to plaintiffs’ claims to use groundwater. DWR approved the GSP for this basin in May 2023 and it is currently undergoing its first 5-year review.
- **Indian Wells groundwater basin (No. 6-54).** A number of legal actions have taken place in this basin in recent years. The Indian Wells Valley Water District (not part of the basin’s GSA) filed the action seeking a comprehensive groundwater adjudication in June 2021; however, this was a cross-complaint to another action filed by an agricultural pumper, Mojave Pistachios, challenging the GSP for the basin. The crux of the conflict is that various parties in the basin disagree about the basin’s sustainable yield; some pumpers allege the Indian Wells Valley Groundwater Authority (IWVGA), the GSA for the basin, underestimated it. The adjudication is in the first phase to determine the U.S. Navy’s federal reserved rights to groundwater in the basin. It is expected that there will be at least two more phases on safe yield and then individual groundwater rights. DWR approved the GSP for this basin in January 2022.
- **Upper Ventura River (No. 4-3.01), Ojai Valley (No. 4-2), Lower Ventura River (No. 4-3.02), and Upper Ojai Valley (No. 4-1) groundwater basins,** commenced in November 2019. Santa Barbara Channelkeeper initiated a suit against the City of Ventura in 2014 to limit the city’s use of water from the Ventura River. The City of Ventura filed a cross-complaint in December 2019 alleging nine claims for relief, one of which seeks a comprehensive groundwater adjudication of these basins. DWR approved the GSP for Ventura River in May 2023 and for Ojai Valley in October 2023.
- **Las Posas Valley groundwater basin (No. 4-8).** A coalition of pumpers, the “Las Posas Valley Water Rights Coalition,” initiated this action in October 2018 against FCGMA (i.e., the GSA for the basin) seeking a comprehensive groundwater adjudication. Parties reached a settlement in spring 2023 that the court adopted in July 2023. DWR approved the GSP for this basin in January 2022; this will be supplanted by the judgment in the comprehensive groundwater adjudication.

An additional adjudication in the Borrego Valley groundwater subbasin (No. 7-024.1) commenced in July 2020; the court approved a stipulated judgment to settle this adjudication on April 8, 2021 and the case is no longer active.

- 3) **Indian Wells Valley groundwater adjudication.** A recent order by the trial court illustrates the need for further clarification from the Legislature on how to harmonize SGMA with groundwater adjudications and how courts are to comply with Water Code § 10737.2. In June 2024, the trial court directly confronted the question of whether or not to proceed with adjudicating safe yield in the second phase of the trial. IWVGA argued that doing so was unnecessary and duplicative as it had already determined sustainable yield when developing the GSP. On the other hand, challengers IWVWD, Mojave Pistachios, and Searles Valley Minerals, among others, argued adjudicating safe yield was necessary and that the determination of sustainable yield in a GSP in a non-judicial setting is non-binding.

The court carefully weighed both arguments and relevant statutes: “Although the legislative history of the Streamlined Act acknowledges the possibility that dissatisfied parties potentially could undermine a GSP by filing an adjudication action..., no provision of either law specifically addresses how to proceed in such a situation. That being said, the thrust of the above-referenced statutes [i.e., Water Code § 10737.2 and CCP § 850 *et seq.*] make clear that the Legislature has attempted to harmonize SGMA and the Streamlined Act. The catch, of course, is the lack of explicit guidance in a case such as the one before the Court.” The trial court ruled in favor of proceeding with adjudicating the basin’s safe yield.

IWVGA filed an appeal of the trial court’s ruling and Attorney General Rob Bonta filed an amicus brief on October 17, 2024 on behalf of DWR and the State Water Board supporting the appeal: “The State Agencies are concerned that two parallel undefined and competing processes—one by the courts in an adjudication and other by public agencies implementing GSPs—for determining how much water is available to be pumped from groundwater basins could frustrate the purposes of [SGMA] and result in significant and duplicative expenditures of resources.” The amicus brief goes on to note that “DWR has provided approximately \$500 million in assistance to local agencies to implement SGMA over the past decade.” The Court of Appeal declined to take up the petition for writ of mandate in November 2024.

- 4) **Arguments in support.** The Fox Canyon Groundwater Management Agency (FCGMA) supports this bill arguing that it “establishes a Validation Action as the correct venue to challenge a [GSP] and clarifies the court’s ability to review a GSP during a groundwater adjudication.” FCGMA points out that this bill does not “change the ability of a groundwater user to request” a groundwater adjudication and asserts “adjudications should not be used to challenge or overturn the findings of a GSP. In three critically overdrafted basins, parties have used adjudications to seek court reviews of GSP findings without deference to the SGMA process. Some litigants use adjudications and validation actions to delay sustainability measures, continue overdrafting, and remove water rights from small farmers and disadvantaged communities. This trend is inappropriate and undermines SGMA.”
- 5) **Oppose unless amended.** The California Chamber of Commerce and a number of trade associations and water agencies (CalChamber *et al.*) have taken an “oppose unless amended” position on this bill. CalChamber *et al.* argue that this bill “would unconstitutionally insulate agency decisions from judicial review, deprive groundwater right holders of due process, and remove constitutionally granted authority from the courts.” CalChamber *et al.* maintain by

leaving a reverse validation action as the sole avenue for judicial review of the sustainable yield in a given GSP, this bill deprives groundwater right holders of their due process rights. Further, CalChamber *et al.* note that a validation action, unlike a comprehensive groundwater adjudication, does not allow claimants to present evidence of their individual groundwater right claim. CalChamber *et al.* maintain this bill violates separation of powers enshrined in the Constitution: “mandating judicial deference to GSPs amounts to a quasi-legislative branch unduly influencing judicial proceedings, thereby disrupting the balance among government branches.” In addition, CalChamber *et al.* object to this bill’s provisions mandating consolidation of GSP challenges with a groundwater adjudication where both have occurred, arguing this removes the court’s discretion. CalChamber *et al.* do not propose specific amendments in their position letter, but express that “we believe that, together, we can craft an approach that would balance [the author’s] concerns related to predictability, achievement of SGMA’s goals, and protecting water supply and water rights.”

- 6) **Technical amendments.** The Committee proposes the following amendments to clarify whether a GSP is validated and that all elements of a GSP are subject to validation actions:

Amendment 1

CPP § 850....(2) A judgment substantially impairs the ability of a groundwater sustainability agency, the State Water Resources Control Board, or the department to comply with the Sustainable Groundwater Management Act and to achieve sustainable groundwater management if it allows more total pumping from the basin annually or on average than the sustainable yield of the basin established in the latest groundwater sustainability plans covering the basin and either of the following apply:

(A) The groundwater sustainability *plan or* plans have been validated by a final judgment issuing from a validation action ~~or an action to invalidate the validation~~ brought pursuant to Section 10726.6 of the Water Code.

(B) The groundwater sustainability *plan or* plans have been validated by operation of law because no validation action ~~or action to invalidate the validation~~ was filed.

Amendment 2

Water Code § 10726.6. (a) ~~(1)~~ A groundwater sustainability agency that adopts a groundwater sustainability plan may file an action to determine the validity of the plan pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure within 180 days following the adoption of the plan.

~~(2) Actions brought pursuant to paragraph (1) shall not adjudicate matters delegated to the department for evaluation pursuant to Section 10733 or regulations adopted pursuant to Section 10733.2. A judgment, or groundwater sustainability plan validated through a judgment or by operation of law, shall not be binding on, or applicable to, the department or the board.~~

- 7) **Double referral.** This bill has also been referred to the Assembly Judiciary Committee.
- 8) **Related legislation.** AB 1466 (Hart) of the current legislative session requires the court, when hearing a groundwater adjudication in a basin subject to SGMA that has an approved

GSP, to request a technical report from a GSA that quantifies and describes the groundwater use of parties that have not appeared before the court in the adjudication proceedings. AB 1466 is also set for hearing before this Committee.

AB 560 (Bennett) of 2024 would have required parties to a comprehensive groundwater adjudication to submit a proposed settlement to the State Water Board for a nonbinding advisory determination regarding its impact on sustainable groundwater management and small and disadvantaged users prior to filing it with the court, among other provisions. AB 560 was held in the Senate Appropriations Committee.

AB 779 (Wilson), Chapter 665, Statutes of 2024, makes various changes regarding proceedings in a comprehensive groundwater adjudication to increase transparency and account for the needs of disadvantaged communities and small farmers in a final judgment. Provides that groundwater pumpers in a basin subject to an adjudication continue to comply with any applicable GSP while the adjudication is pending.

SB 226 (Pavley), Chapter 676, Statutes of 2015, integrates and streamlines the groundwater adjudication process for groundwater basins that are subject to SGMA.

AB 1390 (Alejo), Chapter 672, Statutes of 2015, establishes requirements and procedures for a comprehensive groundwater adjudication to ensure the proceedings and final judgment are consistent with sustainable groundwater management.

REGISTERED SUPPORT / OPPOSITION:

Support

City of Ridgecrest
Fox Canyon Groundwater Management Agency
Indian Wells Groundwater Authority

Oppose Unless Amended

Agricultural Council of California
Almond Alliance
Association of California Water Agencies
California Chamber of Commerce
California Farm Bureau
California Water Association
Indian Wells Valley Economic Development Corporation
Indian Wells Valley Water District
Mission Springs Water District
Ridgecrest Area Association of Realtors
Searles Valley Minerals
United Water Conservation District
Valley Ag Water Coalition
Western Growers Association

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